



IN REPLY REFER TO

DEPARTMENT OF THE ARMY  
ST. LOUIS DISTRICT, CORPS OF ENGINEERS  
210 NORTH 12TH STREET  
ST. LOUIS, MISSOURI 63101

ST. CLAIR C.  
Sanger / Smart  
157675

LMSOD-NP

7 September 1973

Mr. William Child  
Illinois Environmental Protection Agency  
2200 Churchill Road  
Springfield, IL 62706

RECEIVED  
REGION III  
SEP 11 1973  
ENVIRONMENTAL PROTECTION AGENCY  
STATE OF ILLINOIS

Dear Mr. Child:

Attached is a draft copy of a report this office has prepared concerning an alleged violation of Section 13 of the River and Harbor Act of 3 March 1899. The final report will be forwarded to the U. S. Attorney for the Eastern District of Illinois.

Inasmuch as you are named in the attached report as a witness to the alleged violation, I request you review the draft report and correct any inaccuracies or misstatements of fact. Your particular attention is directed to the sections of the report entitled, "Narrative Resume of Facts" and "Witnesses." Exhibits to the report will be numbered and attached after we have received your comments.

Please forward the draft report, along with any comments or suggestions you may wish to offer, by 18 September 1973.

Sincerely yours,

ROBERT R. PARSONS  
Chief, Operations Division

1 Incl  
As stated

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ENVIRONMENTAL PROTECTION AGENCY  
STATE OF ILLINOIS

REPORT CONCERNING APPARENT VIOLATION  
OF THE REFUSE ACT OF 1899  
BY THE DEPOSIT OF REFUSE MATTER  
INTO THE MISSISSIPPI RIVER

Legislative Authority and Basis for Report: Sections 13, 16, and 17  
of the River and Harbor Act of 3 March 1899.

Apparent Violator: Sauget and Company, Monsanto & Nickel Streets,  
Sauget, Illinois 62201

Narrative Resume of Facts: Sauget and Company operates a landfill  
operation on the left bank of the Mississippi River between approximate  
miles 177.0 and 178.0, Upper Mississippi River. The landfill operation  
is riverward of the existing floodwall on the Illinois shore.

During the recent high water stages on the Mississippi River at  
St. Louis, Missouri, personnel from our Permit Section observed trucks  
entering the landfill area. Subsequent investigation of our records  
revealed that the landfill operation was not authorized by the  
Department of the Army in accordance with the provisions of 33 USC 403.  
Our investigation also determined that refuse matter from the landfill  
was washed into the Mississippi River in violation of 33 USC 407.

Personnel from the Illinois Environmental Protection Agency and from  
this District observed the landfill operation closely during the period  
26 March through 5 April 1973. During this period, the subject land-  
fill was flooded by the Mississippi River. Material from the landfill  
was washed into a flooded field downstream of the landfill, and subse-  
quently entered the Mississippi River, a navigable waterway of the  
United States.

*Incl 1*

Illinois Environmental Protection Agency personnel have repeatedly visited the landfill operation since that agency was created in 1972. Their reports constantly cite apparent violations of current State regulations for landfills. A complaint often made is that the operator does not provide adequate cover over material. If the material in the landfill was covered adequately, the amount of material that was washed into the waterway might have been greatly reduced.

When the landfill was flooded, the owner attempted to keep material from leaving the fill by erecting a fence between the landfill and the field mentioned above. The owner, however, continued to accept and deposit material into the landfill during this period.

Reports prepared by the Illinois Environmental Protection Agency state that material was washed out of the landfill and subsequently entered the Mississippi River. Corps of Engineers' personnel also observed the loss of material from the landfill. Photographs of the landfill and adjacent waterway are attached, designated as follows:

<u>Exhibit No.</u>	<u>Photo No.</u>	<u>Date</u>	<u>Time</u>	<u>Description</u>
	1	3/28/73	0750	View toward the S.S.W. which shows that the Sauget landfill operation is being flooded, and that some material in the pit is floating.
	2	3/28/73	0815	View toward the SW. which shows material floating and being washed out of the Sauget landfill.
	3	3/30/73	0755	View toward the NW. which shows the flooded landfill and material in and floating on the water.
	4	3/31/73	0950	View toward the N.NW. which shows material leaving the Sauget landfill.
	5	3/31/73	1715	View toward the NW. showing material which was washed out of the Sauget landfill and deposited below the landfill.
	6	4/01/73	0945	View toward the N.NW. which shows material leaving the Sauget landfill. This is the same location which is shown in Photo No. 4.
	7	4/05/73	1700	View toward the NW. showing material which was washed out of the Sauget landfill. This is the same location shown in Photo No. 5.
	8	4/01/73		View toward the W. showing material washed out of the Sauget landfill. This location is immediately above the location shown in Photos Nos. 5 and 7.

On 17 April 1973, Mr. Patrick McCarthy of the Illinois Environmental Protection Agency inspected the area immediately downstream of the Sauget landfill. Mr. McCarthy noted that a considerable amount of refuse material had been deposited on the left bank of the Mississippi River as a result of flood waters. His report of the inspection also noted that much of the material deposited on the bank was from the Sauget landfill. As an agent of the Illinois Environmental Protection Agency, Mr. McCarthy has often inspected the Sauget landfill and is familiar with the types of refuse matter dumped at the operation.

By letter dated 19 June 1973, this office requested that Sauget and Company provide detailed information pertaining to the subject landfill operation. The company was informed that a Department of the Army permit may be required for the landfill, in accordance with the provisions of 33 USC 403. The company was also advised that this office was investigating the alleged violation of 33 USC 407 which is the subject of this report.

In response to our 19 June letter, the attorney for Sauget and Company asserts that Department of the Army approval under 33 USC 403 is not applicable to the Sauget landfill operation. The attorney also claims that if any refuse was washed into the Mississippi River, it did not impede or obstruct navigation.

Sauget and Company's Probable Contentions: On the basis of correspondence described in the preceding paragraphs, it is expected that Sauget and Company will make the following contentions:

a: The landfill operation is not on the bank of the Mississippi River, and does not require Department of the Army approval under 33 USC 403.

b. If material from the subject landfill operation was washed into the Mississippi River by flood waters during the period 26 March through 1 April 1973, the material did not impede or obstruct navigation.

Suggested Responses to Probable Contentions: The applicability of the Corps of Engineers' permit program under 33 USC 403 (construction permit) is not at issue in this report. This report is forwarded solely on the basis of an alleged violation of 33 USC 407. Any mention of the construction permit program in this report is intended only to provide complete background material in this matter.

Any contention that material washed from the landfill did not impede or obstruct navigation is an assertion not supported by fact. Furthermore, 33 USC 407 makes it unlawful to place refuse matter of any kind on the bank of a navigable waterway, " \* \* \* whereby navigation shall or may be impeded."

The nature and quantity of the material lost from the Sauget landfill is such that, in conjunction with other material borne by the

flood waters, it could contribute to the formation of navigation obstructions. The attached photographs show that a significant amount of refuse matter was lost. This refuse matter included such materials as metal and fiber drums, discarded furniture, cardboard and paper products, discarded vehicle tires, and other "rubber" products, wood, plastic bottles and some household garbage such as glass bottles and metal cans.

Discussion: Although Sauget and Company does not admit that material was lost from its landfill during the high water period of 26 March through 5 April 1973, witnesses observed that materials were in fact washed from the landfill and subsequently entered the Mississippi River. Personnel from this District and the Illinois Environmental Protection Agency witnessed the loss of material during a number of visits to the site.

Photo No. 4 shows material leaving the landfill at the southern end. Photo No. 6 shows the same location the next day. From a comparison of the two photos, it is apparent that material was washed out of the landfill and into an area that is also flooded.

Photo No. 5 shows material from the landfill that is floating along the bank downstream of the landfill. Photo No. 7 shows the same location five days later, indicating a large quantity of material continued to migrate downstream after washing from the landfill.

Witnesses: Messrs. Kenneth Mensing and Patrick McCarthy, Illinois Environmental Protection Agency, 115A West Main, Collinsville, Illinois 62234, (618-345-7700), can testify to the loss of material from the landfill, and subsequent entrance of the material into the Mississippi River and deposit of material in and along the shores of the waterway. They can also give testimony concerning Photos Nos. 1 through 7, attached to this report in Exhibit No. .

Mr. William Child, Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706, (217-525-3397), can testify to the loss of material from the landfill, and subsequent entrance of the material into the Mississippi River and deposit of material in and along the shores of the waterway. He can also testify concerning Photos Nos. 1 through 7, attached to this report in Exhibit No. .

Messrs. Donald Chrismore and Louis Benzek, St. Louis District, Corps of Engineers, can testify that flood waters entered the landfill operation, that material was washed out of the landfill, and that the material lost from the landfill subsequently entered the Mississippi River. Mr. Benzek can testify concerning Photo No. 8, in Exhibit No. of this report.

Exhibits:



Conclusions:

1. That Sauget and Company does not presently hold a Refuse Act permit to deposit material from the subject landfill operation into the Mississippi River, a navigable waterway of the United States.
2. That on 26 March, 27 March, 28 March, 29 March, 30 March, 31 March, 1 April, 2 April, 3 April, 4 April, and 5 April 1973, flood waters entered the landfill operated by Sauget and Company and washed material out of the landfill, said material subsequently entering the Mississippi River.
3. That based on the facts presented in this report, Sauget and Company did not take adequate measures to avoid a violation of Section 13 of the River and Harbor Act of 3 March 1899 (33 USC 407).
4. That the deposit of refuse matter into the Mississippi River, described above constitutes a violation of 33 USC 407.